

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA BOARD OF TEACHING

In the Matter of the Proposed
Revocation of the Teaching Licenses of
George Charles Lehet

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND RECOMMENDATION

The above-entitled matter came on for hearing before Administrative Law Judge Barbara L. Neilson on Monday, January 22, 1996, in Courtroom 1 of the Office of Administrative Hearings in Minneapolis, Minnesota. Erica Jacobson, Assistant Attorney General, Suite 1200, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared on behalf of the Executive Secretary of the Minnesota Board of Teaching ("the Board"). There was no appearance by or on behalf of Mr. Lehet. The record closed at the conclusion on the hearing on January 22, 1996.

This Report is a recommendation, not a final decision. The Board of Teaching will make the final decision after a review of the record which may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact Judith A. Wain, Executive Secretary of the Minnesota Board of Teaching, 608 Capitol Square, 550 Cedar Street, St. Paul, MN 55101, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue in this contested case proceeding is whether or not disciplinary action should be taken against the teaching licenses held by the Respondent on the grounds set forth in Minn. Stat. § 125.09, subd. 1(1) (1994), or Minn. Rules pt. 8700.7500, subp. 2B (1993).

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Respondent, George C. Lehet, presently holds three licenses issued by the Minnesota Board of Teaching: psychology, social studies, and drivers education. Ex. 2.

2. Prior to issuing the Notice of and Order for Hearing in this matter, the Board of Teaching received two complaints relating to the Respondent. Ex. 2.

3. The Notice of and Order for Hearing in this matter was served upon the Respondent by certified mail at Box 708, Rush City, Minnesota 55068, on November 30, 1995. The Board received a return receipt indicating that the Respondent picked up the package containing the Notice of and Order for Hearing on December 6, 1995. Ex. 1.

4. The Notice of and Order for Hearing served on the Respondent contained the following informational notice:

SHOULD A PARTY FAIL TO APPEAR AT HEARING, THE ALLEGATIONS MADE IN THIS ORDER MAY BE TAKEN AS TRUE. If the allegations in this Order are taken as true, the teaching licenses of George Charles Lehet may be revoked.

5. The Respondent failed to respond to the Request for Admissions which was served upon him by the Board with the Notice of and Order for Hearing. Although the Administrative Law Judge notified the Respondent by letter dated December 28, 1995, that the subject matter of the Request for Admissions would be deemed admitted unless he demonstrated by January 5, 1996, that there was a justifiable excuse for his failure to respond, Mr. Lehet did not respond to the letter or otherwise make such a demonstration. Accordingly, in accordance with Minn. Rules pt. 1400.6800, the Administrative Law Judge notified the parties on January 10, 1996, that she would deem admitted the subject matter of the Request for Admissions sent to the Respondent on November 30, 1995.

6. The Respondent did not file any Notice of Appearance with the Administrative Law Judge or make any prehearing request for a continuance or any other relief. He did not personally appear at the hearing scheduled for January 22, 1996, or have an appearance made on his behalf.

7. Because the Respondent failed to appear at the hearing in this matter, he is in default.

8. Pursuant to Minn. Rules pt. 1400.6000 (1993), the allegations contained in the Notice of and Order for Hearing are hereby taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Minnesota Board of Teaching and the Administrative Law Judge have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50 and 214.10 (1994).

2. The Board of Teaching has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law or rule.

3. The Minnesota Board of Teaching has the authority to take disciplinary action against the teaching licenses of teachers, including the Respondent, under Minn. Stat. §§ 125.09 and 214.10 (1994) and Minn. Rules pt. 8700.0700 (1993).

4. Minn. Stat. § 125.09, subd. 1 (1994), provides in pertinent part as follows:

The board of teaching or the state board of education, whichever has jurisdiction over a teacher's licensure, may, on the written complaint of the board employing a teacher, or of a teacher organization, or of any other interested person, which complaint shall specify the nature and character of the charges, suspend or revoke such teacher's license to teach for any of the following causes: (1) immoral character or conduct

5. Minn. Rules pt. 8700.7500 (1993), sets forth standards of professional conduct for Minnesota teachers. Pursuant to subpart 2(B) of that rule, "[a] teacher shall make reasonable effort to protect the student from conditions harmful to health and safety."

6. The Respondent is in default herein under Minn. Rules pt. 1400.6000 (1993), as a result of his failure to appear at the hearing.

7. Under Minn. Rules pt. 1400.6000 (1993), the allegations contained in the Notice of and Order for Hearing may be taken as true or deemed proved without further evidence when a party fails to appear at the hearing.

8. Under Minn. Rules pt. 1400.7300, subp. 5 (1993), the Board of Teaching has the burden of establishing by a preponderance of the evidence the statutory violations charged.

9. As a result of the Respondent's default, the Board of Teaching has met its burden of proof.

10. The Respondent's conduct as set forth in the Notice of and Order for Hearing and incorporated herein pursuant to Finding of Fact No. 8 and his conduct as set forth in the Request for Admissions served upon him by the Board and deemed admitted herein, violates Minn. Stat. § 125.09, subd. 1(1) (1994) and Minn. Rules pt. 8700.7500, subp. 2(B) (1993).

11. As a result of the statutory and rule violations set forth in Conclusion No. 10, the Board of Teaching has the power to suspend or revoke the Respondent's teaching licenses or otherwise discipline him as set forth in Minn. Stat. § 125.09 (1994).

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED that the Board of Teaching take disciplinary action against the teaching licenses of the Respondent, George C. Lehet.

Dated this _____ day of January, 1996

BARBARA L. NEILSON
Administrative Law Judge

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NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the Board is required to serve its final decision upon each party and the Administrative Law Judge by first-class mail.

Reported: Default

